

AFSCME PROPOSAL – DISCIPLINARY ACTION

Proposed MEF Language:

ARTICLE 18 DISCIPLINARY ACTION

- 18.1 The City of San Jose discipline policy applies to both regular permanent (non-probationary) full-time and regular permanent (non-probationary) part-time benefited **and un-benefited** employees and is described in the Discipline Policy, contained in the City Policy Manual. When the need for disciplinary action arises, disciplinary action will be taken commensurate with the seriousness of the offense. The levels of discipline include informal actions, which are oral counseling, documented oral counseling and written reprimand. Formal disciplinary actions are suspension, salary step reduction, demotion and dismissal.
- 18.2 When an employee is being interviewed and the employee reasonably believes that the investigative interview is likely to result in disciplinary action, the employee has the right to request to have a **two** union representatives **in the form of the Business Agent and either an elected Union official or steward** present during the investigative interview.
- 18.3 **Step Reduction.** The San Jose Municipal Code defines disciplinary action as dismissal, demotion and suspension. In addition, the appointing authority may reduce an employee's salary step. The salary may be reduced to no lower than step one (1) of the salary range, and the amount and length of time of the salary reduction will be specified in the Notice of Intended Discipline. The salary may be reduced either for a specified period of time or until the condition which caused the salary reduction has been corrected. The employee may appeal this action, including the amount and the length of time, to the Civil Service Commission according to the same rules as apply to other formal disciplinary appeals.
- 18.4 **Police Department Employees.** Disciplinary actions and internal investigations involving non-sworn employees who are subject to the Police Department Duty Manual will be administered in accordance with section C1811 of the Duty Manual and the Police Department Discipline Procedures Handbook for Employee Relations Liaisons **shall be governed consistent with the rules applicable to sworn members of the Police Department, including, but not limited to the following:**
- 18.4.1 In the event the City determines that discipline may be imposed, it shall complete its investigation and notify the police employee and the Union of its proposed disciplinary action within one year of the discovery of the act, omission, or other misconduct.**
- 18.4.2 A Documented Oral Counseling (DOC) may be appealed under this section to the level of the Assistant Chief of Police. However, should a DOC be the result of the Assistant Chief having reduced a higher form of discipline to a DOC with**

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which the affected employee is still dissatisfied, such DOC may be appealed to the level of the Chief of Police.

18.4.3 Letters of Reprimand (LORs) may be appealed to the City Manager level.

18.4.4 Nothing herein constitutes a waiver of rights of employees otherwise granted by law (e.g., the Meyers-Milias-Brown Act, Government Code Sections 3500, se seq., and the Public Safety Officers Procedural Bill of Rights Act, Government Code Sections 3300, et. seq.).

- 18.4 No provisions of this Article shall be subject to the grievance procedures of this Agreement. The appeal process for any disciplinary action shall only be those described in the San Jose Municipal Code and City of San Jose Discipline Policy in the City Policy Manual and are not subject to appeal through the grievance procedure of this Agreement.

Proposed CEO Language:

ARTICLE 27 DISCIPLINARY ACTION

- 27.1 The City of San Jose discipline policy applies to both regular permanent (non-probationary) full-time and regular permanent (non-probationary) part-time benefited **and un-benefited** employees and is described in the Discipline Policy, contained in the City Policy Manual. When the need for disciplinary action arises, disciplinary action will be taken commensurate with the seriousness of the offense. The levels of discipline include informal actions, which are oral counseling, documented oral counseling and written reprimand. Formal disciplinary actions are suspension, salary step reduction, demotion and dismissal.
- 27.2 When an employee is being interviewed and the employee reasonably believes that the investigative interview is likely to result in disciplinary action, the employee has the right to request to have a **two** union representatives **in the form of the Business Agent and either an elected Union official or steward** present during the investigative interview.
- 27.3 **Step Reduction.** The San Jose Municipal Code defines disciplinary action as dismissal, demotion and suspension. In addition, the appointing authority may reduce an employee's salary step. The salary may be reduced to no lower than step one of the five-step salary range, and the amount and length of time of the salary reduction will be specified in the Notice of Intended Discipline. The salary may be reduced either for a specified period of time or until the condition which caused the salary reduction has been corrected. The employee may appeal this action, including the amount and the length of time, to the Civil Service Commission according to the same rules as apply to other formal disciplinary appeals.
- 27.4 No provisions of this Article shall be subject to the grievance procedures of this Agreement. The appeal process for any disciplinary action shall only be those described



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in the San Jose Municipal Code and City of San Jose Discipline Policy in the City Policy Manual and are not subject to appeal through the grievance procedure of this Agreement.

27.5 Police Department Employees. Disciplinary actions and internal investigations involving non-sworn employees who are subject to the Police Department Duty Manual shall be governed consistent with the rules applicable to sworn members of the Police Department, including, but not limited to the following:

27.5.1 In the event the City determines that discipline may be imposed, it shall complete its investigation and notify the police employee and the Union of its proposed disciplinary action within one year of the discovery of the act, omission, or other misconduct.

27.5.2 A Documented Oral Counseling (DOC) may be appealed under this section to the level of the Assistant Chief of Police. However, should a DOC be the result of the Assistant Chief having reduced a higher form of discipline to a DOC with which the affected employee is still dissatisfied, such DOC may be appealed to the level of the Chief of Police.

27.5.3 Letters of Reprimand (LORs) may be appealed to the City Manager level.

27.5.4 Nothing herein constitutes a waiver of rights of employees otherwise granted by law (e.g., the Meyers-Milias-Brown Act, Government Code Sections 3500, et seq., and the Public Safety Officers Procedural Bill of Rights Act, Government Code Sections 3300, et. seq.).

